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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE OPTICAL DISK DRIVE PRODUCTS  
ANTITRUST LITIGATION

No. 3:10-md-2143 RS (JCS)

INDIRECT PURCHASER PLAINTIFFS'  
RESPONSE TO OPPOSITION TO  
ERWIN'S ATTORNEY'S FEE MOTION  
*IN PART*, AND OPPOSITION TO  
ERWIN-IPP SETTLEMENT FOR  
ATTORNEY'S FEES

DATE ACTION FILED: Oct. 27, 2009

This Document Relates to:

ALL INDIRECT PURCHASER ACTIONS

1 Indirect Purchaser Plaintiffs respectfully submit this brief response to absent class member  
2 Shiyang Huang's Opposition to Erwin's Attorney's Fee Motion *in Part*, and Opposition to Erwin-  
3 IPP Settlement for Attorney's Fees (filed Aug. 15, 2022, ECF No. 3103).

4 Huang is mistaken that class notice must be given. Under Fed. R. Civ. P. 23, class members  
5 have a right to notice under many, but not all, circumstances. Objecting class member Conner Erwin  
6 seeks an incentive award for conferring a benefit on the class and a fee award to his counsel. His  
7 motion is not a substantive resolution of underlying merits issues, which concluded years ago.  
8 Reflecting this difference, Rule 23(e)(5)(B) mandates only that a "payment or other consideration" to  
9 an objecting class member must be "approved by the court after a hearing." Likewise, under Rule  
10 23(h)(1), class notice of fee motions is required only for fee "motions by class counsel." Huang does  
11 not contest that as an absent class member who has objected, he received notice of Erwin's fee  
12 motion and related filings.  
13

14 This Court has discretion to notify the class, but Huang cites no relevant authority for his  
15 argument, contradicted by the language of Rule 23, that class notice is mandatory before granting  
16 Erwin's motion on the terms the parties have proposed. Because Class Counsel's fees are not  
17 implicated, Erwin's motion presents no issue of, as earlier in the litigation, whether class notice "at  
18 least would be prudent under the circumstances." ECF No. 2956 at 2 (order addressing whether Class  
19 Counsel's renewed fee motion on remand called for class notice).  
20

21 Indeed, class notice would be cumbersome and impractical under the circumstances now. It  
22 would delay distribution to class members who have long awaited it and, except for Huang, have not  
23 persisted with objections. Given the finality the proposed terms would achieve, asking the class to  
24 pay less than 15 cents on the dollar for the additional amount returned to the settlement fund is fair,  
25 reasonable and adequate and warrants the Court's approval under Rule 23.  
26  
27  
28

1 DATED: August 17, 2022

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2  
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